IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.567 OF 2005

IN

SUIT NO.490 OF 2003

Mohamed Aquil Mohamed Ismail
Qureshi & Ors. ...Plaintiffs

Versus

Ashish Patwardhan & Ors. ...Defendants

And

M/s.Steecon Builders Pvt.Ltd. & Anr...Respondents

.....

Mr.K.A.Sampat for Plaintiffs.

Ms.Seema Gupta i/b Mr.Ashok Saraogi for Defendant No.3.

Mr.H.S.S.Murthy for Respondent No.1.

.....

CORAM: A.M.KHANWILKAR, J.

SEPTEMBER 26, 2005.

P.C.

1. Heard Counsel for the parties. Perused the pleadings.

2. By this Application, the Plaintiffs seek to bring on record Respondents as Defendant Nos.5 and 6. According to the Plaintiffs, the Respondents are claiming right in respect of the suit property through Defendant No.4 and original Defendant No.5. They claim to have become owners by adverse possession of the said property. This position has been revealed after pleadings were filed, for which reason, present Application is necessitated.

3. Having considered the pleadings on record and the arguments advanced across the bar, in my opinion, presence of Respondents in the Suit will be proper for full, complete and effectual adjudication of all the issues in respect of the suit property. In such a situation, in my opinion, the Plaintiffs are entitled for the relief claimed in this Chamber Summons.

4. The only objection raised on behalf of the Defendants is that the claim against the Respondents/proposed Defendants 5 and 6 has become barred by limitation. It is well settled that

question of limitation will have to be considered at the trial and cannot be the sole basis to reject prayer for amendment. Accordingly, this Chamber Summons ought to succeed in terms of prayer clauses (a) and (b).

5. Counsel for the Plaintiffs fairly state that so far as prayer clauses (c) and (d) are concerned, it is not necessary to pass any orders at this stage, as parties will comply with the requirement of inspection and only in case of any difficulty, such a relief will be renewed.

6. Accordingly, Chamber Summons made absolute in terms of prayer clauses (a) and (b) without prejudice to the question of limitation as aforesaid.

7. Amendments to be carried out within four weeks from today. No order as to costs.

A.M.KHANWILKAR, J.